IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5414 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

VASANTIBEN BACHUBHAI RANA

Versus

COMMISSIONER OF POLICE

---

Appearance:

MR SATISH R PATEL for Petitioner

MR AJ DESAI ASSTT GOVT PLEADER for Respondent No. 1, 2, 3

---

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 24/01/2000

ORAL JUDGEMENT

#. Heard learned advocate Ms.Banna Datta, for learned advocate Mr.S.R.Patel on behalf of the petitioner and Mr.A.J.Desai, learned AGP appearing for respondents No. 1, 2 & 3.

#. The detention order dated 17-5-1999 passed by respondent No. 1 - The Commissioner of Police, Vadodara against the petitioner in exercise of powers conferred under Section 3(2) of the Gujarat Prevention of Anti Social Activities Act 1985 (`PASA' for short') is challenged by way of this present petition under Article 226 of the Constitution of India.

#. That the grounds of detention served and supplied to the detenu under Section 9(1) of the PASA, a copy of which is produced at Annexure-C interalia indicates that 4 prohibition cases were registered against the petitioner in between 20-10-97 to 31-1-99. That in each case, the country made liquor was seized from the possession of the petitioner / detenu and all the four cases are pending for trail in the Court.

#. That three witnesses on assurance of anonymity have given information regarding the bootlegging activities of the petitioner vide statements dated 20-3-99, 21-3-99 and 22-3-99 respectively, wherein, they have referred to the incidents of dated 12-12-1998, 30-1-99 and 14-2-99 respectively. That on the basis of the said material, the respondent No. 1 - The Commissioner of Police, Vadodara as the detaining authority has come to the conclusion that the petitioner / detenu is a bootlegger within the meaning of Section 2(b) of PASA. That enforcement of general provisions of law being insufficient to prevent the petitioner from continuing her anti social activities, and as such, detention order under PASA is necessary and hence the impugned order is passed.

#. The petitioner has challenged the impugned order of detention on numerous grounds. It has been contended on behalf of the petitioner at bar that the subject satisfaction reached by the detaining authority is vitiated on account of non application of mind as passing of the detention order is delayed for any reasonable explanation.

#. In the matter of PRADEEP NILKANTH PATURKER VS. STATE OF MAHARASTHRA reported in AIR 1994 SC 656, the Hon'ble Supreme Court has observed that inordinate delay in taking action under detention law is fatal to the validity of the detention order. Even this Court also in the matter of ELESH PATEL VS. THE COMMISSIONER OF POLICE, AHMEDABAD reported in 1997 (1) GLH 381 has also followed the said proposition by referring the various authorities of Hon'ble Supreme Court and has held that in the absence of reasonable explanation for delayed action,

the detention order cannot be sustained.

#. In the instant case, perusal of grounds of detention indicates that last case against the petitioner was registered on 31-1-99, in which, the petitioner was released on bail on 24-2-1999. That witnesses have given statements on 21st March, 1999 and 22nd March, 1999 relating to the incidents alleged to have occurred on 12-12-1998, 30-1-99 and 14-2-1999 respectively. In the context of the same, as there is no explanation as to why the impugned order has been delayed till 17-5-1999, hence, in above view of the matter, it is difficult to uphold the same.

#. As the petition succeeds on the aforesaid ground alone, it is not necessary to consider and decide the other contentions raised in the petition.

#. On the basis of the aforesaid discussion, the petition is allowed. The detention order dated 17-5-1999 passed by respondent No.1 - The Commissioner of Police, Vadodara against the petitioner is hereby quashed and set aside. The petitioner - Smt. VASANTIBEN BACHUBHAI RANA is ordered to be set at liberty forthwith, if not required in any other case. Rule to that extent is made absolute.

Date : 24-1-2000 [A.K.Trivedi, J.]

#kailash#